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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/763,914

01/23/2004

Andrew Halliday

67627

7832

48940 7590 10/12/2007
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EXAMINER

ALEXANDER, REGINALD

ART UNIT

PAPER NUMBER

3742

MAIL DATE

DELIVERY MODE

10/12/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/763,914

Applicant(s)

HALLIDAY ET AL.

Examiner

Reginald L. Alexander

Art Unit

3742

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 September 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-29 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4 and 6-23 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 24-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Double Patenting

Claims 1-4 and 6-23 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-14 of copending Application No. 10/763,915. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims are merely an obvious variation of the copending claims.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 24-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Moskowitz et al.

There is disclosed in Moskowitz a cartridge containing one or more beverage ingredients and being formed from substantially air and water impermeable materials, the cartridge comprising: a inlet 16 for the introduction of an aqueous medium into the cartridge; an outlet 124 for a beverage produced from the one or more beverage ingredients; wherein the cartridge comprises an outer member 24 an inner member 64, 66 inserted in the outer member and means for producing a jet of the beverage, wherein

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the means for producing the jet of the beverage comprises an aperture, defined herein as a series of openings formed between elements 66 in a beverage flow path linking the inlet to the outlet the flow of liquid from the aperture to the narrower outlet 124 creating a jet of beverage, characterized in that the aperture is delimited (bordered) by an interface between the inner member and the outer member; a filter 78 in the flow path; a lid 28 on an open end of the inner member; and an obstruction 72 associated with the inner member that partially obstructs the opening.

In regards to the lid being non-removable, such a term fails to positively recite any structural limitation. The lid is non-removable is it not removed by a user.

In regards to the lid being pierceable, it is apparent that the lid could be pierced by an appropriate tool. The intended use or desired operation of the lid is not structurally limiting.

Allowable Subject Matter

Claims 4 and 6-23 are allowed.

Response to Arguments

Applicant's arguments filed 17 September 2007 have been fully considered but they are not persuasive.

The examiner notes that there is no distinction between the "delimit" and "border" terms used in describing the arrangement between the outer member and aperture. The broad recitation of "bordered" provides no distinct proximity limitations between the elements. An interface between the inner member and outer member still is provided in surrounding arrangement of the aperture defined by the series of openings.

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The pierceable lid recited in the claims has been addressed, in the rejection above, as being not structurally limiting.

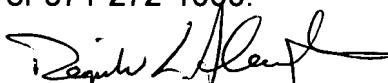
The rotary movement of the prior art filter support means does not prohibit the filter itself from being fixed within the flow path. The filter which is fixed to the support means is located at all times within the flow path.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Reginald L. Alexander whose telephone number is 571-272-1395. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on 571-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

rla
09 October 2007


Reginald L. Alexander
Primary Examiner
Art Unit 3742